



STATE OF CONNECTICUT

Order No. 2508

Vs.

HPC-EIGHT, LLC.

AND

NEW YORK STUCCO AND GENERAL CONSTRUCTION

CONSENT ORDER

- A. With the agreement of New York Stucco & General Construction, LLC (Respondent NY Stucco) and HPC-Eight, LLC (Respondent HPC-Eight) (collectively referred to as Respondents), the Commissioner of Energy and Environmental Protection (Commissioner) finds the following:
1. Respondent HPC-Eight is the owner of the property located at 100/110 Commons Park North #C8 in Stamford, Connecticut (subject property).
 2. Respondent HPC-Eight is constructing an apartment building on the subject property. All activity on the subject property is being performed by or at the direction of Respondent HPC-Eight.
 3. Respondent NY Stucco is a general contractor and masonry provider headquartered at 57 Old Albany Post Road in Ossining, New York. Respondent NY Stucco worked on the subject property installing Styrofoam to the exterior of the building.
 4. In accordance with RCSA Section 22a-174-18(c)(1) of the Regulations of Connecticut State Agencies (RCSA) no person shall cause or allow any materials to be handled, transported, or stored; or a building, its appurtenances, or a road to be used, constructed, altered, repaired or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne.
 5. In accordance with RCSA Section 22a-174-18(c)(2) no person shall cause or allow the emission of visible particulate matter beyond the legal boundary of the property on which such emission occurs that either remains near ground level beyond such property boundary or diminishes the health, safety or enjoyment of people using a building or structure located beyond the property boundary.
 6. In accordance with RCSA Section 22a-174-18(c)(3) no person shall emit particulate matter into the ambient air in such a manner as to cause a nuisance.
 7. During an inspection conducted on August 3 and 7, 2017 (Log #2017-0618) the field engineer observed chunks and beads of Expanded polystyrene foam (EPS) (commonly known as Styrofoam®) from construction activities on the subject property deposited throughout the neighborhood, in several storm drains, and on the construction site.

8. The Commissioner issued Notice of Violation (NOV) #17848 to Respondent NY Stucco on August 21, 2017 for violations of RCSA Section 22a-174-18(c)(1), Section 22a-174-18(c)(2) and Section 22a-174-18(c)(3).
 9. The Commissioner received a response to NOV #17848 on September 20, 2017 describing new work procedures implemented to minimize fugitive Styrofoam emissions.
 10. The Commissioner issued NOV #17849 to Building and Land Technology Corporation, LLC (BLT) - the alleged property owner - on August 21, 2017 for violations of RCSA Section 22a-174-18(c)(1), Section 22a-174-18(c)(2), and Section 22a-174-18(c)(3).
 11. The Commissioner received a response to NOV #17849 on September 29, 2017. In the response, Respondent HPC-Eight stated that HPC-Eight, LLC, not BLT, is the owner of the subject property. The response also described the revised work practices for installing EPS to the building exterior and EPS clean-up activities.
 12. By virtue of the facts set forth above, the Respondents have violated RCSA Section 22a-174-18(c)(1), Section 22a-174-18(c)(2) and Section 22a-174-18(c)(3).
 13. During an inspection conducted on December 27, 2017, the field engineer observed no fugitive Styrofoam in the areas around the subject property. The application of Styrofoam on the building was complete at the time of the inspection.
 14. By agreeing to the issuance of this Consent Order, the Respondents make no admission of fact or law with respect to the matters herein other than the facts asserted in Paragraphs A.1 through A.3 of this Consent Order.
- B. With the agreement of Respondents, the Commissioner, acting under §22a-6 and §22a-174 of Connecticut General Statute, orders the Respondents as follows:
1. The Respondents shall fully comply with the requirements of RCSA Section 22a-174-18(c).
 2. Civil penalty. On or before thirty (30) days after issuance of this Consent Order, the Respondents shall pay a penalty of \$9,750 as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in Paragraph A.7 through A.10 of this Consent Order.
 3. Payment of penalties. Payment of penalties under this Consent Order shall be mailed or personally delivered to Bureau of Financial and Support Services--Accounts Receivable Office ["F&SS"], Department of Energy and Environmental Protection, 79 Elm Street, Hartford, CT 06106-5127, and shall be by certified or bank check payable to the Connecticut Department of Energy and Environmental Protection. The check shall state on its face, "Bureau of Air Management Civil Penalty, Air Engineering & Enforcement Division, Consent Order #2508."
 4. Full compliance. The Respondents shall not be considered in full compliance with this Consent Order until all actions required by this Consent Order have been completed as approved and to the Commissioner's satisfaction.
 5. Approvals. The Respondents shall use best efforts to submit to the Commissioner all documents required by this Order in a complete and approvable form. If the Commissioner notifies the Respondents that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and the Respondents shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is

specified by the Commissioner, within 30 days of the Commissioner's notice of deficiencies. In approving any document or other action under this Consent Order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this Consent Order. Nothing in this paragraph shall excuse noncompliance or delay.

6. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner or a representative of the Commissioner.
7. Dates. The date of "issuance" of this consent order is the date the consent order is deposited in the U.S. mail or personally delivered, whichever is earlier. The date of submission to the Commissioner of any document required by this consent order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this consent order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is deposited in the U.S. mail or is personally delivered, whichever is earlier. Except as otherwise specified in this consent order, the word "day" as used in this consent order means calendar day. Any document or action which is required by this consent order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed by the next day which is not a Saturday, Sunday or Connecticut or federal holiday.
8. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this Consent Order shall be signed by the Respondents or, if the Respondents are not an individual, by the Respondents' chief executive officer or a duly authorized representative of such officer, as those terms are defined in §22a-174-2a of the Regulations of Connecticut State Agencies, and by the individual(s) responsible for actually preparing such document, and the Respondents or the Respondents' chief executive officer and each such individual shall certify in writing as follows: "I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information is punishable as a criminal offense under Section §53a-157b of the Connecticut General Statutes and any other applicable law."
9. Noncompliance. This Consent Order is a final order of the Commissioner with respect to the matters addressed herein, and is nonappealable and immediately enforceable. Failure to comply with this Consent Order may subject the Respondents to an injunction and penalties.
10. False statements. Any false statement in any information submitted pursuant to this consent order may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.
11. Notice of transfer; liability of Respondent. Until the Respondents have fully complied with this Consent Order, Respondents shall notify the Commissioner in writing no later than 15 days after transferring all or any portion of the facility, the operations, the site or the business which is the subject of this Consent Order or after obtaining a new mailing or location address. The Respondents' obligations under this Consent Order shall not be affected by the passage of title to any property to any other person or municipality.

12. Commissioner's powers. Except as provided hereinabove with respect to payment of civil penalties, nothing in this Consent Order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for past, present, or future violations of law. If at any time the Commissioner determines that the actions taken by Respondents pursuant to this Consent Order have not successfully corrected all violations, fully characterized the extent or degree of any pollution, or successfully abated or prevented pollution, the Commissioner may institute any proceeding to require the Respondents to undertake further investigation or further action to prevent or abate violations or pollution.
13. Respondent's obligations under law. Nothing in this Consent Order shall relieve the Respondents of other obligations under applicable federal, state and local law.
14. No assurance by Commissioner. No provision of this Consent Order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by the Respondents pursuant to this Consent Order will result in compliance.
15. Access to site. Any representative of the Department of Energy and Environmental Protection may enter the facility without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this Consent Order.
16. No effect on rights of other persons. This Consent Order neither creates nor affects any rights of persons or municipalities that are not parties to this Consent Order.
17. Notice to Commissioner of changes. Within 15 days of the date the Respondents become aware of a change in any information submitted to the Commissioner under this Consent Order, or that any such information was inaccurate or misleading or that any relevant information was omitted, the Respondents shall submit the correct or omitted information to the Commissioner.
18. Notification of noncompliance. In the event that the Respondents become aware that they did not or may not comply, or did not or may not comply on time, with any requirement of this Consent Order or of any document required hereunder, the Respondents shall immediately notify by telephone the individual identified in the next paragraph and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. Within five (5) days of the initial notice, the Respondents shall submit in writing the date, time and duration of the noncompliance and the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and the Respondents shall comply with any dates which may be approved in writing by the Commissioner. Notification by the Respondents shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.
19. Submission of documents. Any document required to be submitted to the Commissioner under this Consent Order, unless otherwise specified in this Consent Order or in writing by the Commissioner, shall be directed to:

Robin Baena
Department of Energy and Environmental Protection
Air Engineering & Enforcement Division
79 Elm Street
Hartford, Connecticut 06106-5127

Respondents consent to the issuance of this Consent Order without further notice. The undersigned certifies that he/she is fully authorized to enter into this Consent Order and to legally bind Respondents to the terms and conditions of the Consent Order.

HPC-Eight, LLC

Signature: _____

Type Name: DAVID FITE WATERS

Type Title: AUTHORIZED SIGNATORY

Date: 24 July 2018

New York Stucco and General Construction

Signature: _____

Type Name: MILAN PRCHAL

Type Title: OWNER

Date: 07/23/2018

Issued as a final order of the Commissioner of Energy and Environmental Protection.

Robert E. Kaliszewski

Robert E. Kaliszewski
Deputy Commissioner
Department of Energy and Environmental Protection

August 9, 2018

Date

MAILED CERTIFIED MAIL,
RETURN RECEIPT REQUESTED